

MINUTES

NATURAL RESOURCES COMMISSION

**Lansing Center
333 E. Michigan
Lansing**

February 3, 2005

PRESENT FOR THE COMMISSION

Bob Garner, Vice Chair
Jerry Hall
John Madigan
Frank Wheatlake

ABSENT FOR THE COMMISSION

Mary Brown
Keith Charters, Chairman

PRESENT FOR STAFF

Mark Matus, Legal Counsel
Rebecca Humphries, Director
Dennis Fox, Chief of Staff
Dennis Fedewa, Chief Deputy
Mindy Koch, Resource Management Deputy
Jim Ekdahl, Upper Peninsula Field Deputy
Department Staff

COMMITTEE OF THE WHOLE

Vice-Chairman Garner called the Committee of the Whole meeting of the Natural Resources Commission (NRC) to order at 3:05 p.m. on Thursday, February 3, 2005. The Committee of the Whole is a working session of the NRC.

2004 DOVE SEASON UPDATE

Brian Frawley, Wildlife Division, said that Michigan is the 41st state in the nation to have a mourning dove hunting season. Michigan's hunting areas included six counties in extreme southern Michigan. To participate in this season, hunters were required to have a small game license as well as a dove stamp. Nearly 5000 mourning dove stamps were purchased with seven percent of those purchased being youths. Sixty-two percent of the stamp buyers went afield equaling approximately 3000 hunters in all. Approximately 71 percent of hunters harvested a mourning dove.

Doves in Michigan are managed by the Michigan Department of Natural Resources (DNR), the U.S. Fish and Wildlife Service, neighboring states, Canada and Mexico. Michigan is part of the eastern management unit, which consists of primarily states east

of the Mississippi River. Indiana and Ohio each harvest approximately 300,000 mourning doves annually. In comparison, Michigan harvested only 28,000 doves, which is less than 10 percent of our neighboring states.

The DNR surveyed hunters, finding that 69 percent of those hunters rated the season good to very good.

Bill Moritz, Wildlife Division Chief, stated that the U. S. Fish and Wildlife Service and the Audubon Society conduct annual dove counts. This data will be reviewed by Michigan to help evaluate the impact of the season.

Alan Marble, Chief, Law Enforcement Division, noted that the mourning dove season was a “non-event” relative to enforcement issues.

COUGARS IN MICHIGAN

Dr. Moritz announced that results of DNA testing on hair samples submitted to the DNR last November came from a cougar. A motorist reported hitting “a large cat” on November 2, 2004, and turned over hair samples collected from the bumper to biologists at the DNR Escanaba Field Office. The samples were forwarded to the Wildlife Division's pathology lab and then sent to Central Michigan University for analysis. The incident occurred in southern Menominee County. **Dr. Moritz** said that this information will assist in developing a better understanding of what animals are present in Michigan and identify potential areas for additional work. He did say, however, that this information does not confirm the presence of a breeding population in Michigan.

LEGAL ISSUES UPDATE

Carol Bambery, Legal Services Coordinator, briefed the Commission on the following pending cases:

Wolf Case: Defenders of Wildlife sued the Secretary of the Interior complaining that changing the gray wolf from endangered to threatened status violated the Endangered Species Act. An Oregon Federal District Court agreed and set aside the rule.

Bobcat Litigation: This litigation, filed by the bear hunters and other groups, will be scheduled for a future trial to determine if bobcat trapping in northern Lower Peninsula caused or will cause an impairment to the bobcat population, as alleged.

Comben Case: This case questions whether severed minerals are subject to property taxes. Discussion ensued regarding whether it is wise to continue leasing mineral rights while this case is being deliberated. Director Humphries introduced **Steve Arwood**, former Natural Resources Trust Fund Board member, who, along with Michigan United Conservation Clubs, coordinated a meeting with land conservancies, National Wildlife Federation, hunting clubs, Michigan Environmental Council and others, in support of filing an amicus brief asking the Michigan Supreme Court to take up the case and to reverse the Court of Appeals opinion that property taxes do not apply to severed mineral interests. **Mr. Arwood** stated that this case has ramifications for funds in the DNR, both past and present. The NRC questioned whether it would be appropriate to not hold future oil and gas sales until the court resolves the ownership issue.

APPOINTMENT OF A NEW DNR PRESS SECRETARY – MARY DETTLOFF

Director Humphries reported that **Mary Dettloff** has been chosen to fill the DNR Press Secretary position left vacant by Bradley Wurfel. **Ms. Dettloff** is currently the deputy press secretary in Governor Granholm's office and has also worked as a media relations specialist with the Michigan House of Representatives. She will start her new post on February 22, 2005.

FREE FISHING WEEKEND

Tammy Newcomb, Acting Fisheries Division Assistant Chief, reported that February 19 and 20, 2005, have been designated Michigan's free fishing weekend.

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The Committee of the Whole meeting adjourned at 3:50 p.m. and reconvened at 4:15 p.m. for the following special presentation.

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2004 SHIKAR-SAFARI CLUB INTERNATIONAL OFFICER OF THE YEAR AWARD

The Shikar-Safari Club International Officer of the Year Award is the major award in Law Enforcement Division for recognizing outstanding performance. This honor also carries the distinction of being Michigan's Conservation Officer of the Year. The nominations are submitted by conservation officers, based on established criteria related to officer duties and personal attributes.

Mr. Gunnar Klarr, representing Shikar-Safari Club International, presented the Officer of the Year Award for 2004 to **Conservation Officer (CO) Glenn Gutierrez**. Officer Gutierrez, the 37th recipient of this award, has been a CO since 1993 and has served in District 7 since then. His performance as a field CO is exemplary. He also serves the CO corps through his many roles as a field training officer, firearms instructor and safety officer, and acts on an as-needed basis as a special investigator for the Wildlife Resource Protection Section's Special Investigations Unit.

CO Gutierrez was honored to receive this award. He thanked God and his family for their support and guidance.

Commissioner Garner extended an apology from **Chairman Charters** to CO Gutierrez. **Chairman Charters** was unable to attend this meeting to personally congratulate him.

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The Public Appearances portion of the meeting of the Natural Resources Commission convened at 4:35 p.m.

PUBLIC APPEARANCES

Ed Spinazzola, Quality Deer Management Association
Rob Anderson, Michigan Farm Bureau
Bob McReavy, Nester Lodge, Roscommon County
Walter Nitz, Brighton
Jenness Weigand, Brighton
Allen Sitz, Brighton
Ellen Nitz, Brighton

Ed Spinazzola, Quality Deer Management Association, commented on the Upper Peninsula (UP) deer population. He recommended a “three points on one side” minimum for the entire UP and recommended initiating a habitat resource program of a winter deer carryover habitat improvement effort across the UP.

Rob Anderson, Michigan Farm Bureau, distributed the 2005 Michigan Farm Bureau Policy Manual. He noted that policy development begins mid-summer for the following year and noted that the wildlife policies for 2005 did not change significantly from 2004. The 2005 Manual does stress the importance of wildlife management from a disease perspective and that allowing hunting on private lands is an important tool.

Bob McReavy, Nester Lodge, Roscommon County, believes the deer population in Nester Township is very low and that issuing unlimited doe permits in the area sends the wrong message. His observation shows there are less than 10 deer per square mile in that area.

Walter Nitz, Brighton, reviewed photos, mostly aerial, of the Island Lake Shooting Range, and its relationship with I-96, Kent Lake, the Huron River, etc.

Jenness Weigand, Citizens for a Quiet Community, stated that the noise coming from the shooting range remains intolerable and asked when the sound issues would be abated.

Ellen Nitz, Brighton, questioned whether sound testing was done in all seasons at and around the Island Lake Shooting Range. She asked whether the best interest of the public is being served by allowing the noise levels to continue from the Range.

Allen Sitz, Brighton, is a member of the National Rifle Association and shoots at ranges regularly. However, he lives in the area of the Island Lake Shooting Range and asks that sound abatement be done at that Range.

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The Public Appearances portion of the meeting adjourned at 5:05 p.m. and the regular meeting of the NRC began immediately after at 5:05 p.m.

**APPROVAL OF MINUTES – JANUARY 6, 2005 NATURAL RESOURCES
COMMISSION MEETING**

Commissioner Madigan made a motion, supported by Commissioner Wheatlake, for approval. Motion unanimously carried.

DIRECTOR'S ACTION

Director Humphries intends to sign all Director's Action items on the Agenda.

Resolution – Gray Wolf Status

WHEREAS, a recent court action in the Oregon federal district court potentially affects wolf management in Michigan; and

WHEREAS, such restrictions would impair the Department's ability to respond to citizens' concerns regarding localized nuisance wolf depredation problems; and

WHEREAS, such impairment would jeopardize social support in Michigan for a maintenance population level of wolves; and

WHEREAS, implementation of the Department's wolf management plan requires a diversity of management alternatives including lethal controls;

NOW, THEREFORE, BE IT RESOLVED, THAT the Natural Resource Commission would support a Director's decision to challenge the Oregon federal district court's opinion to vacate the final rules which down-listed the gray wolf from endangered to threatened status.

Commissioner Madigan made a motion, supported by Commissioner Hall, to adopt this Resolution. Motion unanimously carried. This matter is a decision of the DNR Director as indicated in Proposal G.

**APPROVAL OF MINUTES – NRC POLICY COMMITTEE ON FINANCE AND
ADMINISTRATION COMMITTEE, JANUARY 6, 2005**

NRC Policy Committee on Finance and Administration Chair Wheatlake and Commissioner Hall (Committee member) approved the Minutes from the January 6, 2005 Committee meeting.

COMMISSIONER REPORTS

Commissioner Wheatlake sport fished; attended the Charter Boat Captains' Annual Conference in Traverse City; and attended the meeting of the UP Habitat Work Group in Escanaba.

Commissioner Hall chaired the Pigeon River Committee; and attended a meeting with citizens regarding the Brighton Recreation Area to discuss land exchanges.

Commissioner Madigan chaired the UP Habitat Work Group meeting in Escanaba; attended a Safari Club meeting in Iron Mountain; attended the Charter Boat Captains' Annual Conference in Traverse City; met with the South Shore Fishing Club; met with Edison Sault and Sault Ste. Marie area sport groups as a follow-up to last fall's NRC meeting; and announced that the next UP Wildlife Issues meeting will be held on April 9, as well as a UP Habitat Work Group meeting on the same day.

Commissioner Garner enjoyed a great deal of fishing and hunting; attended the UP Habitat Work Group meeting in Escanaba; and attended the Charter Boat Captains' Annual Conference in Traverse City.

NRC Policy Committee on Wildlife and Fisheries – Meeting Report

The NRC Policy Committee on Wildlife and Fisheries convened a meeting on Thursday, February 3, 2005 at 1:00 p.m. in Lansing. Commissioner Garner (Committee Chair) and Commissioner Hall were present for the Committee. Commissioners Wheatlake and Madigan were also present.

Committee Chair Garner opened the meeting by introducing State Representatives Joel Sheltrown and Matt Gillard, Division Chief Bill Moritz (WLD), Acting Assistant Division Chief Tammy Newcomb (Fisheries) and Division Chief Alan Marble (LED). **Bill Moritz, Chief, Wildlife Division**, introduced new biologists Karen Cleveland and Tom Oliver.

Jim Radabaugh, Forest, Mineral and Fire Management Division (FMFM), gave a presentation on accommodation of accessibility for people who use facilities that are managed by FMFM. He reported that in the Off-Road Vehicle (ORV) trail system there are 11 accessible trailheads in the UP and 32 in the Lower Peninsula. He said there are seven accessible trailheads in the snowmobile trail system. **Commissioner Hall** asked how many trailheads there are in the snowmobile system. **Mr. Radabaugh** responded that he did not know. FMFM also manages one boating facility and three fishing facilities that are accessible, meeting American's With Disabilities Act (ADA) standards. In the state forest campground system one semi-modern campground, 17 rustic camping areas and six rustic cabins meet ADA standards.

Chairman Garner mentioned that all of the Resource Management divisions have now made presentations on accessibility to the Committee. He said this effort must be followed up with additional work to provide access to our state lands and facilities by people with disabilities. He appointed Commissioner Jerry Hall as Chair of a new subcommittee on accessibility and presented Commissioner Hall with a binder that had been arranged by **Kelly Grumelot, DNR Human Resources**, containing most of the pertinent laws and regulations relative to ADA and accessibility. He asked Commissioner Hall to provide recommendations for additional provision of accessibility to the NRC within one year.

Chairman Garner then asked **Alan Marble, Chief, Law Enforcement Division**, to explain and discuss the proposed rule changes involving possession of handguns afield as well as modifications to the rules involving captive wild animals. **Chief Marble** explained that the state law involving concealed carrying of handguns overrides the Director's Order that prevents possession of a firearm while doing certain activities such

as bow hunting or shining. It is necessary to modify the Director's Order to allow for the legal carrying of a handgun by people who possess permits for concealed carry while engaged in outdoor activities. Follow-up questions included: Is it legal for a person with a concealed weapon carry permit to carry a handgun while bow hunting? Answer: yes. Is it legal to hunt squirrels with a handgun while bow hunting? Answer: yes, if you are also wearing blaze orange, possess a small game license and are not hunting from a tree stand; Can concealed carry permit holders have a pistol on them while shining? Answer: yes.

Chief Marble stated that the Captive Animal Order needs to be amended because it is in conflict with Act 190, the Privately-owned Cervid Act. Deer and elk are being removed from the Captive Animal Order because Act 190 provides the legal framework for the possession and management of cervids.

Both of the above changes were presented for information at this meeting and will be proposed for action by the Director at the March 10, 2005 NRC meeting.

Steve Sendek, Fisheries Division, made a presentation on a proposed criteria for use in determining candidate Quality Fishing Lakes (non-trout waters). There are presently 68 lakes in 16 counties that have restrictive angling opportunities to allow for the growth of large fish. There is an increasing interest on the part of anglers for additional quality fishing opportunities, and there is a need for a biological rationale and process to designate lakes as quality fishing areas. Fisheries Division personnel have been working on defining the biological and social considerations for candidate lakes. Biological considerations for quality fishing lakes include growth rates, recruitment, mortality and longevity of fish in the lake. An evaluation tool termed Relative Stock Density is used in the evaluation. The recommended process includes selection of a lake for recommendation, field surveys of the fish in the lake, preparation of a lake status report, development of a management prescription, peer review in Fisheries Division, opportunities for public comment, and NRC review and passage of the order that defines the quality rules for the lake. The criteria will be put to public review before consideration of any lake designations.

Following Mr. Sendek's report, **Commissioner Garner** asked **Commissioner John Madigan** to chair a Fisheries subcommittee. Commissioner Madigan accepted the appointment.

The next presentation was an update on moose and elk research. The presentation was made by **Dr. Patrick Lederle, Wildlife Division**. Pat reminded commissioners that this is the 20th anniversary of moose lift and summarized the state of the moose population in Michigan. He indicated that Michigan moose are not as productive as moose in many other populations. **Dr. Lederle** described mortality factors, indicating that trauma (mostly accidental death) is the largest single cause of mortality while brain worm is apparently a smaller cause for mortality in Michigan moose than had been expected. He also described briefly the survey that is being developed to index the moose population.

Dr. Lederle also provided information on Michigan's elk herd. He explained research that is being done to provide survey methodology for determining an index to elk populations similar to the moose sightability index.

Commissioners asked questions about moose numbers, the possible use of a sightability index for determining deer and bear populations, and about elk distribution relative to the Pigeon River Country State Forest. **Dr. Lederle** responded that the moose population was probably in the 400-600 range in the core of the western UP range with some additional animals scattered across the eastern UP, but we have been reluctant to assign numbers to the population because survey methods are still being worked out. He and **Chief Moritz** said the sightability index is probably not a useful tool for determining numbers of deer or bear. Pat also said that as the elk population grew, the range it occupied increased.

Commissioner Garner then asked if there were people in attendance who wished to make their presentations to the Commissioners since time was available and all of the Commissioners who were attending the meeting were in the room.

Representative Matt Gillard responded and presented his thoughts to the Commissioners. He mentioned that an MSU economics study had indicated that approximately \$25 million is being lost in the northeast Lower Peninsula annually because of the deer disease situation and related regulations. He stated that hunting, primarily deer hunting, is declining in his district. He is concerned about hunting clubs in the area being broken up and sold for development because they have provided significant wildlife habitat for generations. He believes the legalization of bait will do quite a bit to mitigate the economic loss in the area.

Representative Joel Sheltroun said he was pleased to be able to attend the committee meeting, but he did not have issues to share at this time.

John Ormsbee, representing Afton Deer Management, an organization in Cheboygan County, presented his thoughts about deer management in his area. He thanked Chief Moritz for attending a recent meeting of Afton Deer Management. **Mr. Ormsbee** would like to see more enforcement of road closures on state lands in his area. He said too many people are going through those areas with vehicles. He asked for a different method of making deer counts so that more accurate numbers can be used to make management recommendations. He suggested that successful hunters should be required to take their deer to a check station and offered Cheboygan County as an experimental area for it. **Mr. Ormsbee** wants more license money to “stay up north,” recommends going to a one buck rule and recommends providing an opportunity for Michigan residents to make \$100 donations on their income tax returns earmarked for habitat work. He said his group has provided plantings for wildlife on state land and praised Brian Mastenbrook and Glen Matthews for their cooperation.

Commissioner Garner asked **Tom Lounsbury** to discuss the upcoming meeting regarding December pheasant hunting in the Thumb. **Mr. Lounsbury** indicated that a public meeting is taking place on February 15 at the Cass City Middle School and all are welcome to attend. He has been working with Commissioner Hall on this meeting and is looking forward to it.

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The NRC meeting adjourned at 5:28 p.m.